UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,872	11/14/2003	Matthias Eberhard Sohn	11884/405801	1867

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EXAMINER
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ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
05/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/713,872	SOHN ET AL.
	Examiner	**Art Unit**	
	Tuan A. Vu	2193	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>31 March 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>2,4,5,10,12,15 and 17-24</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Tuan A Vu/
Primary Examiner, Art Unit 2193

Continuation of 11. does NOT place the application in condition for allowance because: As for the USC 112,2nd paragraph rejection, the M2/M3 levels proffered on pg. 4 (Specifications) cannot address the amount of indefiniteness raised in the Office Action. Applicant's mentioning of "It should be clear from the antecedent bases … multi-layered modeling architecture' (Remarks pg. 11, bottom) in the Remarks cannot remedy to the lack of parallel between the claimed entities (i) --> (iv) as noted in the rejection and the very specific terminology of the Specifications, for which Applicants seems to proffer Fig 2-3. Accordingly, the Disclosure does not mention about a specific layer having within each the entities explained in the Applicant's Remarks, let alone the very language as recited in (i) --> (iv). With respect to Fig.2, 3a-c, the rejection has pointed to the fact that metadata language hierarchy - see Fig .3 --being metadata levels is unrelated to the elements recited as (i)--> (iv) and that there is no clear terminology as recited in (i) --> (iv) and any legend in Fig. 2 to corroborate on the interaction among these entities, and that 'template persistency layer' -- in light of Fig 9-10-- cannot clarify on the layering as set forth as (i) --> (iv) in the claim. The pointed to lines of pg.9 do not cure the lack of parallel terminology between the elements recited and the metadata hierarchy, nor do the framework, repository, generator or modeling related blocks depicted in Fig. 2-3, trully correspond to the flow of interaction between the elements as laid out in the claim; in regard to which Applicants remarks remain vague and not to the point. For example, Applicants cannot map exactly what in the Disclosure represents 'application framework metadata … first layer' and 'application object repository framework in first layer'. Remarks and explanation alone as provided cannot substitute for explicit evidence needed as to overcome absence of layering (first, second, third layer); that is, layering in Specifications in terms of associating each layer of the very nomenclature recited as (i)--> (iv): As long as the terminology used in the claim has no convincing evidence in the text related to the Figures as mentioned in the Remarks, the Remarks is deemed insufficient to resolve the indefiniteness raised specifically in the USC 112. Applicants fail to match each of the claimed terminologies (i) -->(iv) with a pure and simple mapping in the Specifications, without recourse to paragraghs or text where teachings appear not in sync with the very recited language and which amount to dispersed teaching that most often implicate features (e.g. metadata levels, generator, schema, runtime, modeling language) not claimed.

As for the USC 112, first paragraph, Figure 7 cannot bring about how the flow of interaction between the entities recited in (i) --> (iv) is depicted via the legend and arrows of this Figure. At least, instead of asserting that 'one of ordinary skill' would clearly understand the correlation, Applicants fail to map each of the iconic box of the Figure to point to a specific language or paragraph of the claim, in order to reasonably convey that the phraseology of the claim does have corroborating support. The Applicants assertions does not resolve the issue as to how as recited the entities (i) -->(iv) do not have flow as expected in terms of what is deemed as unjustifiable disclosed (e.g. step actions) as set forth in the rejection. A single clear and substantially complete portion is not perceived from the Specifications, and attempt to amalgamate disjoint portions (of the Specifications) and a Figure in which no legend trully maps on the recited features cannot be reasonably perceived as though the inventor has real possession of all the elements of claim 17 with regard to the flow as laid out therein. The argument is deemed largely insufficient.

As for Iyengar, the argument about the reference not teaching 'generation of repositories' or 'of metadata' has been deemed a repeat of previous argument which had been addressed prior to and within the current outstanding office action. The lack of details in terms of this generating from the claims cannot preclude IYengar's restoring of updated as reposited XML specifications for further reuse from reading on the generating process. The validating aspect of the reference as explained in the Office Action (which integrates the unresolved issues from indefinite and unsupported claim language carried over from the § 112 rejections) has been deemed reasonably valid to rebut Applicants ' argument that Iyengar does not disclose 'validating of generated metadata'.

The claims are not in condition for allowance because of the many unresolved issues.